

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

UNITED STATES OF AMERICA,	)	<b>2:14-CR-387-JAD-NJK</b>
	)	
Plaintiff,	)	<b>FINDINGS OF FACT AND</b>
	)	<b>ORDER</b>
v.	)	
	)	(Docket No. 87)
ANTWAN FORTENBERRY,	)	
	)	
Defendant.	)	
	)	

**FINDINGS OF FACT**

Based on the pending Motion made by the United States, and good cause appearing therefore, the Court finds that:

1. On June 11, 2015, this Court entered an Order that the evidentiary hearing for the Defendant's Motion to Suppress would resume on July 1, 2015 at 10:00 a.m. *See* Docket #86.

2. On May 26, 2015, in the matter of *United States v. Yared Retta*, 2:15-cr-009-JAD-VCF, the Court set an evidentiary hearing for Defendant Retta's Motion to Suppress for July 1, 2015 at 10:00 a.m. Undersigned counsel is counsel for the Government in the *Retta* matter. The Government issued subpoenas to its witnesses for that hearing on June 8, 2015. One of the Government's witnesses is from out of town.

3. The Government is respectfully requesting that this Court continue Defendant Fortenberry's evidentiary hearing to a date and time as soon as practicable after July 1, 2015, since the undersigned unfortunately cannot be in two places at the same time.

1           4.       The Defendant's trial is presently set for June 30, 2015; however, the undersigned  
2 expects that the parties will enter into a stipulation to continue the trial, and that the trial will be  
3 continued, given the presently-scheduled evidentiary hearing date.

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5           5.       The additional time is not sought for purposes of delay or due to any lack of  
6 diligence on behalf of the undersigned. The Government is requesting a continuance so that the  
7 United States can enjoy continuity of counsel to represent its interests in this matter.

8           6.       The Defendant is in custody. However, the request for a continuance is unlikely  
9 to prejudice the Defendant given the already-existent necessity for a trial continuance to  
10 accommodate the presently-scheduled evidentiary hearing.

11  
12           7.       This is the first motion filed herein to continue the evidentiary hearing.

13           For all of the above-stated reasons, the ends of justice would best be served by a  
14 continuance of the evidentiary hearing.

15                               **CONCLUSIONS OF LAW**

16           The additional time is not sought for purposes of delay or due to any lack of diligence,  
17 but rather, the Government is requesting a continuance so that the United States can enjoy  
18 continuity of counsel to represent its interests in this matter.

19           The failure to grant said continuance would likely result in a miscarriage of justice.

20                               **ORDER**

21           IT IS THEREFORE ORDERED, that the previously-scheduled evidentiary hearing  
22 scheduled for July 1, 2015 at 10:00 a.m. be vacated and continued until  
23 July 6 \_\_\_\_\_, 2015 at 10:00 a.m. in Courtroom 3B.

24  
25  
26           6/17/2015

27                                 
28                               Hon. NANCY J. KOPPE  
UNITED STATES MAGISTRATE JUDGE